

Winston Kemper B-64476  
PVSP B5-129  
P.O. Box 8502  
Coalinga, CA 93210

CASE # C07 4666 JSW  
(PR)

Winston Kemper  
v.  
James Yates, Warden

NUMBER ONE

TABLE OF CONTENTS AND AUTHORITIES

On direct appeal my attorney raised three issues (see enclosed briefs), my attorney clearly stated these issues are reserved for federal review.

Emphasis on the fact that the Bailiff was in the stand with Plaintiff when he was testifying and was constantly manhandling the plaintiff during his testimony. The only way to prevent or prove this due process of law violation, is one not to have a bailiff in the stand when someone "is testifying" or two "have a video of the trial during this testimony."

This appeal and briefs are respectfully submitted to this Court for review. A full evidentiary hearing is requested.

Date: 3-4-08

Respectfully submitted,

Winston Kemper  
WINSTON KEMPER

Claim # Concerning The  
admissibility of Burglary as  
Intent and common design evidence,  
see U.S. v. LE May (9TH Cir 2001) 260  
F. 3d 1018, 1030; Wheelchel v.  
Washington 232 F. 3d 1197, 1211.

Claim # Regarding Deputy  
Instand while appellant  
testifying (man handling me),  
see Holbrook v. Flynn (1986) 475 U.S. 560.

claim # concerning PrePonderance  
of evidence instruction for  
other-crimes evidence, see People v.  
James (2000) 81 Cal App 4TH 1343 (P.1358).  
Juan v. Allen 408 F. 3d 1262.

Claim # Regarding Restitution  
BOTTLINE LINE is: IF Calif. State Prison  
had not illegally kept my money (4,000)  
dollars. Money issue would not of been  
raised. I would be like I am destitute. And  
with out 5,000 dollar debt. Documents  
forthcoming IF necessary. Full  
evidentiary hearing requested.

(a)

Winston Kemper

1 Winston Kemper

2 vs.

Case No. 07 4666 JSW (PR

3 James Yates, warden

4  
5 PROOF OF SERVICE BY U.S. MAIL

6  
7 I declare that:

8 I am incarcerated at Pleasant Valley State Prison, in Coalinga California.  
9 I am over the age of eighteen years and the Petitioner in the above-entitled  
10 cause; My address is P.O. Box 8502, Coalinga, California 93210. I am familiar  
11 with the mail collection and process of the California Department of Corrections  
12 in which the mail is deposited with the United States Postal Service on the same  
13 day that it is deposited for collection and mailing, in the ordinary course of  
14 business. On 3-4-08, I served the following document:

12 ~~TABIE OF CONTENTS~~

13 TABIE OF CONTENTS AND AUTHORITIES

14 ☒ United States Postal Service Delivery by causing a true copy and/or  
15 original thereof to be placed in a sealed envelope with postage thereon  
16 fully prepaid in the designated area for outgoing mail.

16 ☐ By Personal Delivery on the parties in this action by causing a true copy  
17 and/or original thereof to be delivered by hand to the offices of the  
18 addressee(s).

18 ☐ Via Certified Mail, Return Receipt Requested by causing a true copy and/or  
19 original thereof to be placed in a sealed envelope with postage thereon  
20 fully prepaid in the designated area for outgoing mail.

20 addressed as follows: CLERY,

21 U.S. DISTRICT COURT  
22 450 Golden Gate ave, RM 16-1120  
23 San Francisco, Ca. 94102-3489

24  
25 I declare under penalty of perjury that the foregoing is true and correct,  
26 and that this declaration was executed on 3-4-08, at Coalinga,  
27 California.

28 By: Winston Kemper

Petitioner / Appellant